IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

WP(C).No. 36464 of 2004(N)

PETITIONERS:

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1. C.MOHAMMED NAJIB, S/O.T.V.MOHAMMEDKOYA,
REP. BY HIS POWER OF ATTORNEY HOLDER C.P.AHMMEDKOYA,
S/O.ABOOBACKER KUNHI, R/A. CHEMMANGAD PALLI HOUSE,
NAGARAM AMSOM DESOM, KOZHIKODE TALUK.

2. KAYANIYIL SUBAIDA, D/O.KUNHALI,
R/A.CHERUVANNUR AMSOM DESOM, KOZHIKODE TALUK.

3. PARAKKOD SAFIYA, D/O.ABDUL RAHIMAN,
R/A. NALLALAM AMSOM DESOM, KOZHIKODE TALUK.

BY ADV. SRI.V.V.SURENDRAN
SRI.P.M.PADMANABHAN

RESPONDENTS:

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1. THE LAND TRIBUNAL, KOZHIKODE.

*** 2. KOZHIPPURATH KUTTYMALU AMMA,**
P.O.KALLAI, KOZHIKODE.

***2ND RESPONDENT IS DELETED FROM THE PARTY ARRAY AS PER ORDER DTD. 11/01/06.**

3. K.M.MAHAMOOD, S/O.AHMMEDKUTTY HAJI,
RESIDING AT KOYAPPATHODI BUNGLOW, P.O.ERANHIPALAM,
KACHERI AMSOM DESOM, KOZHIKODE TALUK.

BY ADV. SRI.D.KRISHNA PRASAD for R3
SRI.D.NARENDRANATH
SRI.M.HARISHARMA
SRI.T.P.ELDHOSE
BY GOVERNMENT PLEADER SRI.THOMAS JOHN AMBOOKAN

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.36464/2004 N

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE REPORT OF THE PURCHASE CERTIFICATE DTD. 28/12/2001.

EXT.P2: COPY OF THE OBJECTION FILED BY THE 3RD RESPONDENT DTD. 7/06/2002.

EXT.P3: COPY OF THE OBJECTION FILED BY THE 3RD RESPONDENT DTD. 16/09/2002.

EXT.P4: COPY OF THE COUNTER STATEMENT FILED BY THE PETITIONERS DTD. 7/04/2003.

EXT.P5: COPY OF THE ORDER OF THE LAND TRIBUNAL DTD. 3/08/2004.

EXT.P6: COPY OF THE REPORT OF THE SPECIAL REVENUE INSPECTOR DTD. 14/09/2004.

3RD RESPONDENT'S EXHIBITS:

EXT.R3(A): COPY OF THE REPORT OF THE REVENUE INSPECTOR DTD. 30/10/2004.

EXT.R3(B): COPY OF NOTICE DTD. 11/04/2002 IN SMC 1759/2001 ISSUED BY THE 1ST RESPONDENT.

/TRUE COPY/

KSS

PIUS C. KURIAKOSE, J.

W.P.(C) NO. 36464 of 2004

Dated this the 4th day of July, 2007

JUDGMENT

Sri.V.V.Surendran, the learned counsel for the petitioners addressed very strenuous and fervent submissions before me against Ext.P5 order of the Land Tribunal by which Ext.P1 initial report of the authorized officer on the basis of which suo motu case was registered has been set aside. He submitted that in view of Ext.P5, the initial report Ext.P1 is going to be ignored by the Tribunal. According to him, since the suo motu itself was registered on the basis of Ext.P1, very proceedings will have to be closed.

2. I have heard the submissions of Sri.D.Krishna Prasad the learned counsel for the contesting respondent and those of Sri.Thomas John Ambookan the leanred Government Pleader also. Both of them submitted that it is not correct to say that Ext.P1 is the first report. According to Sri.Krishna Prasad Ext.P1 is liable to be set aside since Ext.P1 was prepared behind the back of the 3rd respondent who is a necessary party. According

to him, Ext.P1, at any rate, was not the earliest report. The earliest report, he contends, is Ext.R3(a). The learned Government Pleader submits that it is open to the petitioner to file his objection to Ext.P6 report also in which case, the Tribunal will consider those objections also.

3. Having considered the rival submissions addressed at the bar, I am of the view that the Tribunal is to take decision on the basis of all relevant materials which comes on record during the enquiry. The argument of the counsel for the petitioners that because of Ext.P1 has been set aside, the proceedings itself will come to close is too technical for receiving acceptance. I repell the challenge against Ex.P5. If the petitioners are able to convince the Tribunal that Ext.P1 continues to be relevant in spite of Ext.P6, the Tribunal will consider Ext.P1 also along with Ext.P6 and other relevant materials.

The writ petition is disposed of accordingly.

PIUS C. KURIAKOSE,
JUDGE.

dpk